

ORDINANCE NO. 1007

AN ORDINANCE CREATING ARTICLE VI OF CHAPTER 2 OF THE TOWN OF HOLLYWOOD PARK CODE OF ORDINANCES PROVIDING FOR AN ADMINISTRATIVE PROCEDURE AND APPEAL PROCESS TO ADDRESS ORDINANCE COMPLIANCE, PROVIDING FOR NOTICE, ENFORCEMENT AND PENALTY PROCEDURES, DESIGNATING THE APPROPRIATE OFFICIALS TO SERVE UNDER EACH PROVISION OF THE TOWN'S CODE OF ORDINANCES.

WHEREAS the Town of Hollywood Park Code of Ordinances allow for enforcement through criminal mechanisms as well as civil/administrative mechanisms; and

WHEREAS different circumstances require an evaluation of which mechanism is appropriate in any given case; and

WHEREAS the Town Council wishes to better and more efficiently address non-compliance; and

WHEREAS the Town Council finds it is in the best interest of its citizens and the general public to have the ability to address non-compliance through an administrative process; and

WHEREAS to protect the general health, safety, and welfare of the public, the Town Council adopts this administrative procedure and appeal process.

I.

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HOLLYWOOD PARK HEREBY CREATES AND ADOPTS ARTICLE VI OF CHAPTER 2 OF THE TOWN OF HOLLYWOOD PARK CODE OF ORDINANCES AND AMENDS THE DESIGNATED EXISTING CODE PROVISIONS TO OPERATE IN CONFORMITY WITH ARTICLE VI OF CHAPTER 2 AS FOLLOWS:

ARTICLE VI OF CHAPTER 2 – ADMINISTRATIVE ENFORCEMENT

**Section 2-130 - Administrative Procedures Adopted and Scope**

- (a) The Town of Hollywood Park hereby creates this administrative procedure to be utilize in addition to any other process allowed by law for abatement, remedy violations, or non-compliance with the Town of Hollywood Park Code of Ordinances.
- (b) The administrative procedures found in this article include, but are not limited to, abatement procedures, remedy procedures, civil penalty procedures, and any other administrative matter allowed by law which can be properly implemented herein.
- (c) It is the purpose of this article to adopt a uniform administrative procedure to carry out the various types of administrative enforcement matters and ensure compliance with the Town's Code of Ordinances.

- (d) The uniformity of the administrative procedures adopted in this article may be altered or adjusted within a subject matter specific chapter of the Town of Hollywood Park Code of Ordinances.
- (e) The procedures in this article are not applicable to any criminal prosecution but may be utilized in addition to any criminal prosecution.
- (f) The procedures in this article are not applicable to any employment matter where the Town of Hollywood Park is the employer.
- (g) The procedures in this article are not applicable to any actions or conditions of the Town or any volunteer, elected or appointed official of the Town, or any Town property.
- (h) The procedures in this article are not applicable to parliamentary procedures adopted for the operation of the Town Council, or any other board or commission of the Town.

### **Section 2-131 – Definitions**

For purposes of this article, the following definitions apply, unless otherwise specified.

- (1) *abatement officer* – shall be defined as listed in section 2-132(a) of this article.
- (2) *Administrative Appeal* – shall mean an appeal from an order of the abatement officer to the appropriate appellate officer.
- (3) *administrative order* – shall mean an order issued by the abatement officer pursuant to this article, including an abatement order.
- (4) *Appellant* – shall mean the person who is appealing an abatement order.
- (5) *appellate officer* – shall mean the appropriate administrative officer who hears an appeal of an order issued by the abatement officer.
- (6) *Code of Ordinances* – shall mean the Town of Hollywood Park Code of Ordinances, including all international codes and codes adopted by reference.
- (7) *Enforcement Action* – shall mean an action brought by the Town of Hollywood Park against a person, persons, entity and/or property seeking a court order to comply with a final administrative order.
- (8) *Judge of the Town of Hollywood Park Municipal Court* - shall mean the presiding judge of the Town of Hollywood Park Municipal Court appointed by the Town Council, or any associate or replacement judge assigned to a matter by the presiding judge.
- (9) *Municipal Court Appeal* – shall mean an appeal brought by an Appellant from an appellate officer's decision regarding an administrative order and filed in the Town of Hollywood Park Municipal Court.
- (10) *Municipal Court Clerk* - shall mean the appointed clerk of the Town of Hollywood Park Municipal Court.
- (11) *Notice, providing* – for any provision of this article which requires the providing of notice from the Town to any person, such notice is deemed provided, on the date it is placed in the mail, with proper postage, with the USPS or a comparable letter carrier, addressed to the last known address of the intended recipient, which is

known to the Town. If the only contact information known to the Town is an email address for the intended recipient, such notice is deemed provided, on the date it is emailed to the last known email address of the intended recipient, and no undeliverable response email is received from the entity controlling the routing of such email. For any provision of this article which requires the providing of notice from the Town to real property which is in violation, notice is deemed provided, on the date it is placed in the mail, with proper postage, with the USPS or a comparable letter carrier, addressed to the owner or owners at the address listed by the Bexar County Appraisal District records as being the owner or owners on the date the notice is mailed. For any provision of this article which requires the providing of notice from the Town to titled property (such as an automobile or boat) which is in violation, notice is deemed provided, on the date it is placed in the mail, with proper postage, with the USPS or a comparable letter carrier, addressed to the owner or owners at the address listed by the appropriate state agency holding the title records. The date the notice is provided shall be the date of transmission or submission to a mail carrier, not the date of receipt.

- (12) *Subject Matter Specific Sections* - refers to any sections of the Town of Hollywood Park Code of Ordinances which is not contained within this article but allows for an administrative order or abatement of a violation or nuisance under a topic-specific local, state or federal law.
- (13) *Violation* – for purposes of this article, a violation means when a person or property is not acting in conformity or is not in a state of conformity with any specific provision of the Town of Hollywood Park Code of Ordinances, including any international or technical code provisions adopted or incorporated by reference. The term includes any actions or states of being which are non-compliant, regardless of whether any specific section of the code of ordinances specifies such action or state as being a violation.

#### **Section 2-132 Abatement Officer**

- (a) For purposes of this article, the Town designates an abatement officer, who shall be the public employee, officer, official, or designee responsible for administering the investigation, notices or administrative order for any given subject matter.
- (b) As different subject matters require different levels of training, expertise, education, certification, or license, each subject matter, chapter, or subchapter of the Town of Hollywood Park, either by policy or within these codes of ordinances may designate an appropriate abatement officer.
- (c) The Town of Hollywood Park Code Compliance or Code Enforcement Officer shall be the abatement officer in the event any subject matter, chapter, or subchapter of the Town of Hollywood Park Code of Ordinances does not specify an abatement officer.
- (d) If a subject matter, chapter, or subchapter of the Town of Hollywood Park Code of Ordinances specifies an abatement officer, such abatement officer may utilize the Code Compliance or Code Enforcement Officer for support purposes.

### **Section 2-133 Abatement Officer Authorization**

- (a) The abatement officer is authorized to investigate any violation of the Town of Hollywood Park Code of Ordinances by any person or persons or property for the purpose of determining if the abatement officer will issue any notice(s) of violation, any administrative order(s), or seek any enforcement action(s). The abatement officer is authorized to investigate any additional violations by the same person or property, which occurs on a separate day, and treat such as separate investigations.
- (b) The abatement officer is authorized to seek, where legally appropriate, an administrative search warrant or administrative abatement warrant, to aid in any administrative investigation or administrative order.
- (c) The abatement officer is authorized to issue notices of violations if the abatement officer determines, at the officer's discretion, that a violation of any requirement or requirements of the Town of Hollywood Park Code of Ordinances exists.
- (d) The abatement officer is authorized to utilize the assistance of the city attorney, or a

deputy city attorney, in pursuing any investigation, warrants, or enforcement action. However, only the city attorney or designated deputy city attorney may initiate a formal enforcement action in a court of competent jurisdiction.

- (e) After the abatement officer issues any notice of violation and (1) provides the person or property the legally required time to bring such violation into compliance, and (2) the violating person or property fails to remedy or become remedied, the abatement officer is authorized to issue an administrative order requiring the violation be remediated.
- (f) When issuing an administrative order, the abatement officer is authorized to make a determination of whether any aspects of the violation constitute a public or private nuisance.
- (g) The abatement officer is authorized to issue a civil penalty to any person, persons, or property who fail to remedy a violation within ten (10) calendar days after issuance the administrative order. Such civil penalty shall only be issued after the remediation period listed in the administrative order has expired.
- (h) The abatement officer, in addition to any department head of the Town or the mayor, is authorized to request the city attorney or designated deputy city attorney to initiate a formal enforcement action in a court of competent jurisdiction to enforce any administrative order.
- (i) With authorization of the Town Council, the city attorney or designated deputy city attorney may, at any time, initiate an original formal enforcement action in a court of competent jurisdiction to enforce compliance with a municipal ordinance, without first obtaining an administrative order.

### **Section 2-134 – Administrative Notice**

- (a) If the abatement officer has good reason to believe a violation has occurred or continues to occur, the abatement officer may provide the person, persons, or property notice of such violation, in writing.
- (b) Such written notification shall identify the location of the violation, the date or series of dates of the violation, the text of the specific Town of Hollywood Park Code of Ordinance section or sections being violated, and a time period of at least ten (10) calendar days for the person, persons, or property to remedy the violation.
- (c) Such written notification shall be provided as outlined in this article or as otherwise allowed by law for a specific violation.
- (d) After the expiration of the allotted time period to remedy such violation, the abatement officer may investigate to determine if the violation has been remedied and the person, persons or property are in compliance.

#### **Section 2-135 - Administrative Order**

- (a) Unless specified otherwise by this article or state or federal law, if the abatement officer has provided notice of a violation and a time period to remedy the violation and such violation still exists or continues to occur at the expiration of the remediation period, the abatement officer may issue an administrative order. The abatement officer may issue a separate administrative order for each day a violation continues to exist. Separate administrative orders do not require separate Administrative Notices if such separate administrative orders are directly related to the original administrative notice and remedy period.
- (b) All administrative orders must, at a minimum, be in writing and specify the violation, the location of the violation, the date or series of dates of the violation, the specific Town of Hollywood Park Code of Ordinance section or sections being violated, that an administrative notice was provided and the date the administrative notice was provided.
- (c) An administrative order shall order compliance and remediation of the violation, what person, persons, or property is responsible for correcting or remediating the violation, and that such remediation must be commenced immediately or within a time-limit specified by the abatement officer.
- (d) Administrative orders shall impose an obligation on the person, persons, or property identified to act or refrain from acting, and a failure follow the requirements of the administrative order can subject the person, persons, or property to additional penalties under this article or state or federal law.
- (e) An administrative order shall remain in effect until full compliance with the order is obtained, the violation(s) are remedied, the order is appealed and ultimately reversed in whole, or unless the order expressly states an expiration date within the order.
- (f) If the abatement officer has good reason to believe the person, persons, or property responsible for the violation had adequate time to remedy the violation prior to the abatement officer issuing an administrative order, the abatement officer may impose a civil penalty, not to exceed \$2,000.00 per day, for each day a violation

continues to occur after the end of the remedy period. Such civil penalty may be restricted in amount by state or federal law for certain subject matter violations, in which case, the state or federal law maximum civil penalty amount controls.

#### **Section 2-136 – When Immediate Abatement Authorized**

- (a) *Immediate Threat:* Notwithstanding any other provision of this article, in the event a violation of a specific section or sections of the Town of Hollywood Park Code of Ordinances results in an immediate or eminent threat to the health, safety, or welfare of the public, the abatement officer is authorized to:
  - 1) Immediately enter upon public or private property and abate the threat, with no pre-abatement notice;
  - 2) Seek an administrative abatement warrant from a municipal court judge of the Municipal Court of Record for the Town of Hollywood Park or another court of competent jurisdiction; or
  - 3) Utilize any other abatement procedure authorized by law for the immediate removal of a threat to the health, safety or welfare of the public.
- (b) *Post-Abatement Notice:* In the event the abatement officer is required to abate a threat to the health, safety, or welfare of the public without pre-abatement notice, the abatement officer shall, as soon as practical, provide post-abatement notice of the person, persons or property legally responsible for creating or allowing the threat. In such post-abatement notice, the abatement officer may charge the person, persons or property the cost of the abatement performed. Such costs must be provided, in a reasonably itemized form, to the person, persons or property in the post-abatement notice and designated as an administrative order. Such costs may be collected by any lawful means, including, but not limited to, placing a lien upon any real property owned by the violating person, persons or property when authorized by local, state, or federal law.

#### **Section 2-137 - Administrative Appeal from Administrative Order**

- (a) *Appellant:* If a person wishes to appeal the decision of the abatement officer which applies and imposes an administrative order upon the person or upon property the person owns or is responsible for, such person must file a written appeal with the Town Secretary within ten (10) business days from the date notice of the Abatement Order was provided. Such person shall be referenced as the Appellant for purposes of the appeal.
- (b) *Appeal Documents:* A written appeal must either be on a form adopted by the abatement officer or must clearly state “Notice of Appeal of Administrative Order” in bold, 24 pt. font or larger on the front page of the appeal. Such written appeal must be signed by the person appealing. The written appeal must specify the administrative order being appealed, the abatement officer who issued the administrative order, the basis for the appeal, any information the person wishes to provide relating to the appeal, and any specific relief the person wishes to request. The Appellant must provide three (3) paper copies of the appeal and all supporting

information to the Town Secretary. As an alternative to providing three (3) copies, the Appellant can provide one (1) paper copy of the appeal and a digital copy with all supporting information on disc, portable drive, or via email, to the Town Secretary.

- (c) *Appellate Officer:* Such appeal shall be forwarded by the Town Secretary to the appropriate appellate officer for review and a ruling. Subject matter specific sections of the Town of Hollywood Park Code of Ordinances may specify the appellate officer for appeals under such sections. Unless otherwise specified by a provision of the Town of Hollywood Park Code of Ordinances, the appellate officer shall be the department head sitting over the Abatement Officer's position. If no department head exists at the time the appeal is filed, the appellate officer shall be the mayor of the Town of Hollywood Park.
- (d) *Abatement Officer Notified:* Such appeal and all supporting information provided by the Appellant shall also be provided to the abatement officer by the Town Secretary. The abatement officer must provide his/her file and records involving the administrative order to the appellate officer. The abatement officer may also provide, to the appellate officer, any explanation or additional information the officer feels is necessary to explain or justify the administrative order. The abatement officer must provide such records and information within five (5) business days of receipt of the appeal by the abatement officer. If the abatement officer does not timely provide such records or information, the appellate officer may proceed to review the appeal without such records or information.
- (e) *Suspension of Order:* If an Appellant appeals an administrative order to the appellate officer, such appeal suspends the administrative order during the pendency of the appeal. Notwithstanding the suspension, the appellate officer may issue a temporary order for a minimum level of compliance, abatement, or violation remedy during the appeal if the appellate officer has good reason to believe that failing to do so could threaten the health or safety of the public or specifically identified persons while the appeal is pending.
- (f) *Appellate Officer Review:* The appellate officer shall consider each appeal filed and shall issue a written letter ruling on each appeal. Such letter ruling shall be issued within ten (10) business day from the date the appellate officer receives the records of the abatement officer. The appellate officer may review the records of the abatement officer, speak with witnesses or other individuals with knowledge, review the papers filed by the appellant, and conduct his/her own analysis of the violation. The appellate officer is not required to conduct a formal hearing. However, the appellate officer shall meet with the appellant during the review period, if a request is made, in writing, for such a meeting, by the Appellant, in order to hear appellant's basis for the appeal. The appellate officer must then:
  - 1) Affirm, in whole or in part, the administrative order as written by the Abatement Officer;
  - 2) Modify, in whole or in part, the administrative order as written by the Abatement Officer;

- 3) Reverse, in whole or in part, the administrative order as written by the Abatement Officer; or
- 4) Any combination of 1, 2, or 3 above.
- (g) *Notice Provided:* The appellate officer shall provide or cause to be provided the appellate officer's decision to the appellant by any notification means provided under this article.

#### **Section 2-138 – Appeal to Municipal Court by Appellant**

- (a) If the appellant to an administrative appeal wishes to appeal the appellate officer's decision, the appellant may appeal the decision to judge of the Town of Hollywood Park Municipal Court, which is a court of record.
- (b) The Town of Hollywood Park Municipal Court is hereby authorized to hear any timely filed appeal under this article. The judge of the Town of Hollywood Park Municipal Court sits as a judicial officer during such appeal. Unless specified otherwise by state or federal law, the Town of Hollywood Park Municipal Court shall follow the Texas Rules of Civil Procedure and Texas Rules of Appellate Procedure to the extent applicable.
- (c) Within five (5) business days after the appellate officer provides notice of the Officer's decision to the appellant, the appellant must file an appeal with the clerk of the Town of Hollywood Park Municipal Court and pay the appropriate filing fee set by the court.
- (d) Such appeal must be in writing, labeled as "Notice of Appeal of Appellate Officer Decision" or a comparable title, and must set forth the grounds upon which the appellant seeks the appeal.
- (e) The appellant must provide notice to the abatement officer by providing a copy of the documents filed with the Municipal Court Clerk to the abatement officer. The appellant must file, with each document filed with the Municipal Court Clerk, a certification, signed by the appellant or the appellant's attorney, attesting to how the appellant provided notice of such filing to the abatement officer of such filing.
- (f) The Municipal Court shall set a hearing on the appeal. The appellant and the abatement officer are both entitled to reasonable notice of such hearing. Such hearing may be a live evidentiary hearing, or it may be a hearing on motions with attached evidence. Such hearing lies within the sound discretion of the judge of the Municipal Court.
- (g) With the exception of any nuisance determinations, the appellant's appeal is not a *de novo* review but is based on the administrative appeal standard of substantial evidence. The judge of the Municipal Court shall perform a legal analysis of whether any aspects of the violations asserted in the administrative order constitute a nuisance as a matter of law and may do so *de novo*.
- (h) During the appeal, the abatement officer bears the burden to support any administrative orders subject to the appeal with substantial evidence.
- (i) During the appeal, the judge of the Municipal Court can review or hear evidence, listen to arguments, issue orders, or review briefs submitted on the issues.



- (j) During or after a final hearing by the judge of the Municipal Court, the judge may:
  - 1) Affirm, in whole or in part, the administrative order as written by the abatement officer;
  - 2) Modify, in whole or in part, the administrative order as written by the abatement officer;
  - 3) Reverse, in whole or in part, the administrative order as written by the abatement officer; or
  - 4) Any combination of 1, 2, or 3 above.
- (k) However, the judge of the Municipal Court shall affirm the administrative order to the extent the administrative order is supported by substantial evidence.
- (l) In reviewing any administrative order, the judge of the Municipal Court shall analyze whether any aspects of the violations asserted constitute a nuisance as a matter of law. If the judge finds such aspects constitute a legal nuisance, the judge shall expressly list as an affirmative finding in the Judge's final order.
- (m) Upon the judge of the Municipal Court affirming or modifying any portion of the administrative order, the judge shall also issue a judicial enforcement order, compelling the appellant to comply with the administrative order, as affirmed or modified, as directed by the Judge.
- (n) If the administrative order is authorized and applies under a subject matter specific state or federal law, and such state or federal law allows for an appeal of the judicial enforcement order, the procedures set forth in the applicable state or federal law apply to such appeal. Unless specified otherwise by state or federal law, the appeal under a specific subject matter procedure shall not suspend the enforcement of the judicial enforcement order. Unless an appeal of the judicial enforcement order is authorized by a specific state or federal law, the Municipal Court's judicial enforcement order is final and not appealable.

#### **Section 2-139 – Enforcement Action in Municipal Court by Abatement Officer**

- (a) If the abatement officer issues an administrative order which is not timely appealed, or where the appellate officer issues an opinion affirming or modifying an administrative order, in whole or in part, which is not timely appealed, the person, persons or property subject to the administrative order shall comply with the order.
- (b) If the person, persons, or property does not timely comply with an administrative order, the abatement officer may seek enforcement of the order in the Town of Hollywood Park Municipal Court or any other court of competent jurisdiction.
- (c) Such shall be considered an enforcement action. No filing fee is charged for the filing of such an enforcement action in the Town of Hollywood Park Municipal Court. The style of such enforcement action shall be "*Town of Hollywood Park vs.*" followed by the name or identifier for the person, persons, or property subject to the enforcement action. Unless specified otherwise by state or federal law, the

Town of Hollywood Park Municipal Court shall follow the Texas Rules of Civil Procedure and Texas Rules of Appellate Procedure to the extent applicable.

- (d) The scope of an enforcement action shall be for the judge to determine if the abatement officer is entitled to have a court order compelling enforcement of the administrative order. The judge may modify the administrative order only if required by law to allow enforcement of such order. The person, persons or property subject to the administrative order and enforcement action may not appeal or seek modification of the administrative order within an enforcement action initiated under this section or counterclaim any cause against the Town or any employees, officials, officers, or agents.
- (e) The person, persons or property subject to the administrative order and enforcement action shall be provided notice of the filing of such action by the abatement officer. Such person, persons or property shall also be provided notice, under this article or the Texas Rules of Civil Procedure, for any hearings set in the court on such enforcement action.
- (f) With the exception of any nuisance determinations, the abatement officer bears the burden to establish the administrative order is supported by substantial evidence.
- (g) The abatement officer bears the burden of establishing, by a preponderance of the evidence, that any aspects of the violations in the administrative order, constitute a nuisance.
- (h) The judge of the Municipal Court shall hold a hearing on the enforcement action. Such hearing may be a live evidentiary hearing or a hearing simply on motions, with attached evidence. The form of hearing remains within the Judge's discretion.
- (i) The judge shall issue a written ruling on the enforcement action. To the extent the abatement officer meets his burdens, the judge shall issue a judicial enforcement order compelling the person or persons responsible to comply with the administrative order.
- (j) If the judge finds, during or after a hearing, that civil penalties or additional civil penalties are warranted, the judge may include such penalties within the judicial enforcement order, or any subsequent orders of the court.
- (k) The judge has authority to utilize any powers authorized by law, including, but not limited to, issuing additional orders or writs necessary to obtain compliance with the court's judicial enforcement order. Such may include holding the person or persons who fail to comply with a judicial enforcement order in contempt of court, issuing injunctive writs, or declaratory orders authorized by law.

#### **Section 2-140 – Cumulative**

Nothing in this article is meant to prevent the Town of Hollywood Park or any abatement officer from utilizing other processes or procedures allowed by law in obtaining compliance with the Town's Code of Ordinances, including, but not limited to, filing criminal charges, seeking enforcement under Chapter 54 of the Texas Local Government Code, or seeking enforcement under any other local, state or federal law. The procedures and provisions of this article are cumulative of all other procedures or substantive claims authorized by law.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 10, Article I, section 10-1 of the Town of Hollywood Park Code of Ordinances by adding the following definitions:

*Abatement Officer*, for purposes of applying Article VI of Chapter 2 to this Chapter, shall mean the animal control officer.

*Appellate Officer*, for purposes of applying Article VI of Chapter 2 to this Chapter, shall mean the Chief of Police of the Town of Hollywood Park.

*Reoccurring Nuisance Animal* means a domestic or wild animal, which has not been declared a vicious or dangerous animal by the animal control officer but has been determined by the animal control officer to be the cause or contributing cause of a nuisance within the Town of Hollywood Park on at least three (3) separate occasions within a twelve (12) month period. Depending on the individual circumstances, the animal's actions which cause or contribute to a nuisance include, but are not limited to, all animals qualifying under Section 10-60, destruction or damage of public or private property, causing injury to another domestic or wild animal, escaping confinement and control of the owner, disturbing property owners through spraying urine or defecating, causing offensive odor, being unlicensed and tagged if required by this Chapter, and being the source of a criminal conviction or deferred adjudication under this Chapter.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 10, Article II, section 10-43 of the Town of Hollywood Park Code of Ordinances by adding the following duties and renumbering existing duties as follows:

(11) Issuing abatement notices and abatement orders as outlined in Article VI, Chapter 2 of the Town of Hollywood Park Code of Ordinances. The animal control officer is authorized to perform all actions necessary to accomplish either duty.

(12) Executing administrative warrants.

(13) Removing animals which are the subject of animal cruelty pursuant to a court order or as otherwise allowed by law.

~~(11)~~(14) It shall be unlawful for any person to interfere with the animal control officer in the performance of his duty under the provisions of this chapter.

(15) The animal control officer is authorized to perform all actions necessary to accomplish any duty listed or as otherwise authorized by law.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 10, Article II, section 10-44 of the Town of Hollywood Park Code of Ordinances by adding the following:

(4) Any action authorized by court order.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 10, Article II, section 10-48 of the Town of Hollywood Park Code of Ordinances by adding the following:

(4) The abatement officer may issue administrative orders to enforce compliance and the removal of animals in excess of this section.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 10, Article VI, section 10-104 of the Town of Hollywood Park Code of Ordinances by adding the following:

Civil remedies under this section may include, but are not limited to, those outlined in Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 10, Article VII, of the Town of Hollywood Park Code of Ordinances by adding section 10-178 as follows:

For purposes of this article, the Deer Project Manager shall be the abatement officer for purposes of seeking enforcement of this article and may utilize the procedures set forth Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances.

For purposes of this article, the appellate officer shall be the mayor of the Town of Hollywood Park.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 14, Article I, section 14-5 of the Town of Hollywood Park Code of Ordinances by adding the following definitions:

For purposes of this chapter, the Code Compliance or Code Enforcement Officer, as designated by the mayor, shall be the abatement officer for purposes of seeking enforcement of this article and may utilize the procedures set forth Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances.

For purposes of this chapter, the appellate officer shall be the Town's building official.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 14, Article VIII, section 14-586 of the Town of Hollywood Park Code of Ordinances by adding the following:

(d) Notwithstanding any other provision of this article, the Board of Appeals shall have no power or jurisdiction to hear an appeal if an Abatement Notice or Abatement Order has been issued under Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances which contains or partially contain the same property.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 18, Article II, of the Town of Hollywood Park Code of Ordinances by adding section 18-23 as follows:

In addition to any procedure, remedy, or penalty contained within this chapter, the Town may utilize the procedures under Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 20, Article II, section 20-31 of the Town of Hollywood Park Code of Ordinances by adding the follows definitions:

*Abatement Officer*, for purposes of this Chapter, means the Code Compliance or Code Enforcement Officer, as designated by the Mayor, for purposes of seeking enforcement of this article and may utilize the procedures set forth Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances.

*Appellate Officer*, for purposes of this Chapter, the shall be the mayor.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 20, Article III, section 20-86 of the Town of Hollywood Park Code of Ordinances as follows:

Whenever the abatement officer finds that a person has violated a prohibition or failed to meet a requirement of this article, the abatement officer may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analysis, and reporting;
- (2) The elimination of construction site stormwater runoff;
- (3) That violating construction practices or operations shall cease and desist;
- (4) The abatement or remediation of construction stormwater runoff and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs; and/or
- (6) The implementation of construction stormwater runoff BMPs.

If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor, and the expense thereof shall be charged to the violator.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 20, Article III, section 20-87 of the Town of Hollywood Park Code of Ordinances as follows:

Any person receiving an abatement notice or a notice of violation under this article may appeal the determination. The notice of appeal must be received within ten (10) days from the date of the notice of violation. Unless otherwise required by state or federal law, the appeal process followed shall be the procedures under Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances. To the extent a different procedure is required by

state or federal law and is in conflict with the provisions of Article VI of Chapter 2, such state or federal law procedure shall control.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 21, Article I, of the Town of Hollywood Park Code of Ordinances by adding the following:

Section 22-2. – Civil Enforcement

- (a) For purposes of this chapter, the abatement officer shall be the assistant fire chief, or a lieutenant designated by the fire chief to perform the duties of the abatement officer under this chapter.
- (b) For purposes of this chapter, the appellate officer shall be the fire chief.
- (c) In addition to any remedies or penalties provided by this chapter or the technical code adopted by the town, the abatement officer may utilize Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances.
- (d) Civil penalties are authorized for violations of this chapter. Such penalties must be pursued under Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 26, Article I, section 26-15 of the Town of Hollywood Park Code of Ordinances by adding the following definition:

*appellate officer* means the City Engineer, for purposes of Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 28, section 28-5 of the Town of Hollywood Park Code of Ordinances by adding the following:

In addition to any criminal penalties, civil enforcement, including penalties, are authorized for violations of this Chapter under Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 30, Article I, section 30-2 of the Town of Hollywood Park Code of Ordinances by adding the following:

In addition to any criminal penalties, civil enforcement, including penalties, are authorized for violations of this article under Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances. For purposes of enforcing this article under Article VI of Chapter 2 the Town's chief health inspector shall be the appellate officer. To the extent any procedural provisions of this chapter conflict with Article VI of Chapter 2, the procedural provisions of this chapter control.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 30, Article II, of the Town of Hollywood Park Code of Ordinances by adding the following:

Section 30-27. – Administrative Application

For purposes of this article, the Town may not utilize Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances. Instead, the Town must utilize the administrative rules adopted by this article. However, nothing prevents the Town from seeking civil enforcement to the extent circumstances fall outside of the administrative rules adopted by this article.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 30, Article III, Division 1 of the Town of Hollywood Park Code of Ordinances by adding the following section:

Section 30-112.- Civil Enforcement Procedures

In addition to any criminal penalties, civil enforcement, including penalties, are authorized for violations of this article under Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances. For purposes of enforcing this article under Article VI of Chapter 2 the Town's code compliance or code enforcement officer shall be the abatement officer. To the extent any procedural provisions of this chapter conflict with Article VI of Chapter 2, the procedural provisions of this article control.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 30, Article III, Division 2, section 30-137 of the Town of Hollywood Park Code of Ordinances by amending the following:

- (a) The abatement officer shall have the power and duty, when any such situation as described in section 30-136 exists, to require and notify the owner and occupant or person having control of any lot within such Town, to keep free from weeds, rubbish, brush, and any other objectionable, unsightly or unsanitary matter of whatever nature.
- (b) If such owner, occupant or person having control of any lot within the Town fails or refuses to comply with an abatement notice, the abatement officer shall issue an abatement order requiring remediation of the conditions.
- (c) If such owner, occupant or person having control of any lot within the Town fails or refuses to comply with an abatement order within the time allotted in the order, the Town may do such work or may cause the same to be done and may pay thereof and charge the expenses incurred in doing or having such work done or improvements made, to the property, or to the owner, occupant, or person having control of such property.
- (d) The abatement order may also assess a penalty upon any owner or occupant violating the provisions which are authorized by Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances.
- (e) If the such owner, occupant or person having control of any lot within the Town fails or refuses to comply with an abatement order within the time allotted in the order, the abatement officer may issue further orders, including a civil penalty of up to \$1,000.00 per day for each day the property remains out of compliance. The abatement officer may further seek such orders from a court of competent jurisdiction to enforce the abatement order.

- (f) The abatement officer, in addition to the remedies provided by any other provision of this article, has the power to cause any of the improvements mentioned in this section to be done at the expense of the Town on account of the owners, and cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. On filing a statement by the mayor, city health officer or other city official designated by the mayor of such expenses with the county clerk, the Town shall have a privileged lien thereon, second only to tax liens and liens for street improvements, to secure the expenditure so made and ten (10%) percent interest on the amount from the date of such payment. For any such expenditures, and interest, as aforesaid, suit may be initiated, and foreclosure had in the name of the Town. The statement so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work or improvements.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 30, Article III, Division 3, of the Town of Hollywood Park Code of Ordinances by adding the following section:

Section 30-162. - Civil Enforcement Procedures

In addition to any criminal penalties, civil enforcement, including penalties, are authorized for violations of this article under Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances. For purposes of enforcing this article under Article VI of Chapter 2 the Town's code compliance or code enforcement officer shall be the abatement officer. To the extent any procedural provisions of this chapter conflict with Article VI of Chapter 2, the procedural provisions of this article control.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 30, Article III, Division 4, section 30-195 of the Town of Hollywood Park Code of Ordinances as follows:

(a) *Private premises.* A notice shall be sent giving the owner of a junked or abandoned vehicle not less than ten (10) days to abate the nuisance. The notice shall state the nature of the public nuisance on private property and that it must be removed and abated within ten (10) days, and further that a request for hearing must be made before expiration of said ten-day period, such notice to be mailed, by certified or registered mail, with a five-day return request, to the owner or occupant of the private premises whereupon such public nuisance exists.

(b) *Public premises.* A notice shall be sent giving the owner of a junked or abandoned vehicle not less than ten (10) days to abate the nuisance. The notice shall state the nature of the public nuisance on public property or on a public right-of-way and that it must be removed and abated within ten (10) days, and further that a request for hearing must be made before expiration of said ten-day period, such notice to be mailed by certified or registered mail with a five-day return request to the owner or occupant of the public premises or the owner or the occupant of the premises adjacent to the public right-of-way whereupon such public nuisance exists.



(c) *Disposition of vehicle.* After a vehicle has been removed, it shall not be reconstructed or made operable.

(d) *Hearing.* A public hearing prior to the removal of the vehicle, or part thereof as a public nuisance, shall be held before a judge of the Town of Hollywood Park Municipal Court, when such hearing is requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way in which said vehicle is located, within ten (10) days after service of notice to abate the nuisance. Any resolution or order requiring the removal of the vehicle, or part thereof, shall include a description of the vehicle, and the correct identification number and license number of the vehicle, if available at the site.

(e) *Notice to state.* Notice is to be given to the state department of transportation within five (5) days after the date of removal identifying the vehicle or part thereof. Said department shall forthwith cancel the certificate of title of such vehicle pursuant to V.T.C.A., Transportation Code § 683.074(f).

(f) *Exemptions.* The procedures described in this section shall not apply to:

(1) A vehicle, or part thereof, which is completely enclosed within a building in a lawful manner, where it is not visible from the street or other public or private property.

(2) A vehicle, or part thereof, which is stored or parked in a lawful manner on private property in connection with a business of a licensed vehicle dealer or junkyard.

(3) An unlicensed, operable, or inoperable vehicle stored by a resident on his/her property; provided that the vehicle in the outdoor storage area is maintained in such a manner that it does not constitute a health hazard and is screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means, and is limited to one (1) vehicle only.

(g) *Administration.* The administration of the procedures herein contained shall be accomplished by regularly salaried fulltime employees of the Town, except that the removal of the vehicles, or parts thereof, from property may be made by any other duly authorized person.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 58, Article I, section 58-11 of the Town of Hollywood Park Code of Ordinances by adding the following:

(d) *Civil enforcement:* In addition to any criminal penalties, civil enforcement, including penalties, are authorized for violations of this article under Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances. For purposes of enforcing this article

under Article VI of Chapter 2, the Town's code compliance or code enforcement officer shall be the abatement officer.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 58, Article I, Division 1 of the Town of Hollywood Park Code of Ordinances by adding the following section:

**Section 58-23. Enforcement:**

- (a) *Criminal*: Any person who violates any provision of this article shall, upon conviction, be punished according to the general penalties described in section 1-15. Each day that a provision of this ordinance is violated shall constitute a separate offense. An offense under this ordinance is a class C misdemeanor.
- (e) *Civil*: In addition to any criminal penalties, civil enforcement, including penalties, are authorized for violations of this article under Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances. For purposes of enforcing this article under Article VI of Chapter 2, the Town's code compliance or code enforcement officer shall be the abatement officer.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 58, Article IV, section 58-179 of the Town of Hollywood Park Code of Ordinances as follows:

- (a) The Town may institute all appropriate legal action to prohibit any person from knowingly using the public rights-of-way unless the person has complied with the terms of this article.
- (b) For purposes of enforcing this article under Article VI of Chapter 2, the Town's code compliance or code enforcement officer shall be the abatement officer and the mayor shall be the appellate officer.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 62, Article I, section 62-1 of the Town of Hollywood Park Code of Ordinances by adding the following definition:

*Appellate officer* means the city engineer for purposes of Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 70, Article I, of the Town of Hollywood Park Code of Ordinances by adding the following section:

**Section 70-7. Civil Enforcement.**

In addition to any criminal penalties, civil enforcement, including penalties, are authorized for violations of this chapter under Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances. For purposes of enforcing this article under Article VI of Chapter 2, the Town's code compliance or code enforcement officer shall be the abatement officer.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 73, Article II, section 72-15 of the Town of Hollywood Park Code of Ordinances by adding the following:

(3) In addition to any criminal penalties, civil enforcement, including penalties, are authorized for violations of this chapter under Article VI of Chapter 2 of the Town of Hollywood Park Code of Ordinances. For purposes of enforcing this article under Article VI of Chapter 2, the Town's code compliance or code enforcement officer shall be the abatement officer.

NOW, THEREFORE, the Town Council for the Town of Hollywood Park, Texas amends Chapter 78, Article I, of the Town of Hollywood Park Code of Ordinances by adding the following section:

The Town of Hollywood Park Municipal Court shall have jurisdiction consistent with Texas Government Code §30.0005, to enforce any provisions of this chapter. Nothing in the Town of Hollywood Park Code of Ordinances shall prevent the town from utilizing the municipal court as a court of competent jurisdiction.

**II.**  
**CUMULATIVE CLAUSE**

That this Ordinance shall be cumulative of all provisions of the Town of Hollywood Park except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinance, in which event the conflicting provisions of such Ordinance are hereby repealed.

**III.**  
**SEVERABILITY**

That it is hereby declared to be the intent of the Town Council of the Town of Hollywood Park that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the Town Council without incorporation in this ordinance of any such unconstitutional phrases, sentences, paragraphs, or sections.

**IV.**  
**PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government

**V.**  
**EFFECTIVE DATE**


This ordinance shall be effective upon passage and publication as required by State and Local law.

**FIRST READING** by the City Council of the Town of Hollywood Park this the 18 day of ~~September~~ 2018


**APPROVED**

  
**CHRIS MURPHY, MAYOR**

Attest:

  
\_\_\_\_\_  
JANICE ALAMIA, City Clerk

Approved as to Form:

  
\_\_\_\_\_  
MICHAEL BRENNAN, City Attorney